

Serial No.: 10/645,639
Docket No.: 101-1001
Amendment dated August 7, 2007
Reply to the Office Action of May 17, 2007

REMARKS

Introduction

Applicant notes with appreciation the Examiner's indication that claims 24 and 40 would be allowable if amended to overcome the rejections under 35 U.S.C. § 101. Applicant also notes with appreciation the Examiner's indication that each of the references cited in the Information Disclosure Statement of August 22, 2003 have been considered.

Upon entry of the foregoing amendment, claims 1-49 are pending in the application. Claims 1-23 and 25-39 are allowed. Claims 24, 40-44, and 47 have been amended and claims 48-49 have been added. No new matter is being presented. In view of the following remarks, reconsideration and allowance of all the pending claims are requested.

Rejection under 35 USC §112

Claim 43 is rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner contends that the direction originally recited in the claim cannot be ascertained. Claim 43 has been amended to recite the first neighboring pixel as being disposed in the row containing the concerned pixel.

Rejection under 35 USC §101

Claims 24 and 40 have been rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. The subject claims have been amended to recite computer instructions encoded on the computer-readable medium. Thus, it is believed that since claims 24 and 40 now recite statutory subject matter, the claims are allowable, given the Examiner's indication of such.

Rejection under 35 USC §102

Claims 41-47 have been rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,587,115 to Gong et al. (hereinafter "Gong"). For at least the reasons below, reconsideration and allowance of these claims are earnestly solicited.

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Claims 41 and 47

In the Official Action, the Examiner takes the position that Gong allegedly discloses “a digital image quality improving arrangement in which the processor classifies pixel types (column 12, lines 18-26), block feature types (column 7, lines 42-50), and area (i.e. character or image) types (column 11, lines 26-32).” However, Gong appears to operate in a manner similar to the related art described in the “BACKGROUND OF THE INVENTION” section of the subject patent application. For example, in Gong, the pixel type is determined from the block type and all of the pixels in a block are considered to be of the same type. See Gong, column 12, lines 40-43 and the Abstract. Nowhere is it disclosed or taught in Gong, among other things, “a determining unit to determine a block feature type and an area type from a pixel type of a concerned pixel,” as is presently recited in independent claims 41 and 47. As the Examiner is aware, “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). “The identical invention must be shown in as complete detail as contained in the...claim.” Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Moreover, “The elements must be arranged as required by the claim...” In re Bond, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990). Further, if the Examiner is relying on the theory of inherency in any manner, “the Examiner must provide a technical basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied art.” Ex parte Levy, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990; emphasis in original). Thus, for at least the reason that Gong fails to disclose or teach, among other things, the determining unit as recited in claims 41 and 47, the reference does not disclose or teach all of the elements in the arrangement recited by these claims. Consequently, Gong cannot anticipate independent claims 41 and 47, and, accordingly, reconsideration and allowance of the subject claims are earnestly solicited.

Claims 42-46

Dependent claims 42-46 incorporate all of the elements recited in independent claim 41. For at least the reason that Gong fails to disclose or teach the elements recited in independent claim 41, the reference cannot anticipate dependent claims 42-46. Accordingly, reconsideration

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of the rejections and allowance of dependent claims 42-46 are earnestly solicited.

New Claims

New claims 48 and 49 have been added. No new matter is being presented by the additional claims and support for the claimed subject matter can be found throughout the specification, such as, for example, in FIGS. 2, 4, and 10, and the corresponding descriptions thereof.

Conclusion

It is respectfully submitted that a full and complete response has been made to the outstanding Office Action and, as such, there being no other objections or rejections, this application is in condition for allowance, and a notice to this effect is earnestly solicited.


If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided below.

If any further fees are required in connection with the filing of this amendment, please charge the same to our Deposit Account No. 502827.

Respectfully submitted,

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